

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT  
WESTERN DIVISION**

In Re:	:	Case No. 10-17737
	:	
JAMES MATTHEW SPARKS	:	Judge Hopkins
	:	
Debtor	:	Chapter 7
	:	
	:	

**TRUSTEE'S REPORT [RE: ORDER (DOC.39)]**

The Court issued an Order (Doc. 39), relative to its *prior* Order To Appear and Show Cause (Doc. 34) requiring Debtor's counsel, Ms. Diane Kouhri, to "file, within fourteen days from the entry of this order, a pleading that responds to the Court's show cause order." The case docket reflects that, notwithstanding the July 4, 2011 date on the Order (Doc. 39), the response to that Order was due on July 19, 2011.

As of this report which is being submitted on July 20, 2011, Ms. Kouhri has not filed the response as required by *both* orders.

The Trustee has attempted to perform his duties in this matter, including "promoting and preserving the integrity of the bankruptcy system by helping detect fraudulent or abusive conduct." (Chapter 7 Trustee Pledge of Excellence). That duty would seem to include ferreting out those debtors that can afford to pay the bankruptcy filing fee (which, in theory, funds the entire bankruptcy process), but unjustifiably don't. It would also include monitoring the attorneys who conspire with their clients in the abuse of the system.

In this case, that meant that the Trustee:

- Moved to vacate the Order Granting the Debtor's In Forma Pauperis Application (Doc. 7),
- Filed and served his Witness List, Exhibit List, and Exhibits *as required by Court Order herein* (Doc. 25);
- Moved to strike the Debtor's out-of-time and mis-captioned response to the Motion to Vacate;

- Researched and prepared for the hearing scheduled in this matter on March 24, 2011;
- Appeared at the hearing on March 24, 2011;
- Has continued to monitor this case and inform the U.S. Trustee of its status.
- Apprised the Court of Ms. Khouri's non-compliance with the Doc. 39 Order.

Conversely, Debtor's counsel has:

- Filed an inappropriate IFP application;
- Sent a "pinch-hitter" to the 341 meeting;
- Failed to comply with the Court's Order to file Witness and Exhibit documents;
- Filed a tardy, mis-captioned response to the Trustee's Motion to Vacate;
- Failed to appear at the March 24, 2011 hearing;
- Failed to comply with the Court's March 29, 2011 Order (Doc. 33) to file a certification;
- Paid the court costs in this matter, notwithstanding the allegations of inability to do so set forth in the IFP application;
- Failed to comply with the show cause orders of Docs. 34 and 39.

The foregoing demonstrates the mockery that Ms. Khouri has made of the bankruptcy system, this Honorable Court, and the efforts of the Trustee.

This case is now over eight months old. The only matters that require determination are the appropriate sanctions against Ms. Khouri. These should include, at the very least, compensation of the Trustee for his time and expenses in this matter, and disgorgement of any fees received by Ms. Khouri in this case. More severe sanctions, not limited to mandatory bankruptcy and ethics training, seem necessary. And the Court may find that the disregard of its Orders constitute a more egregious offense, mandating a commensurate punishment.

Respectfully submitted,

/s/ Elliott Polaniecki  
Elliott Polaniecki, Trustee  
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Trustee's Report was sent by electronic mail to Diana Khouri and the Office of the U.S. Trustee by electronic mail on July 20, 2011.

/s/ Elliott Polaniecki  
Elliott Polaniecki

07/04/2011	<a href="#">39</a>	Order to File Response To Show Cause Order . Responses Due: 7/19/2011. (1bw) (Entered: 07/05/2011)
07/07/2011	<a href="#">40</a>	BNC Certificate of Mailing - PDF Document (RE: related documents(s) <a href="#">39</a> Order to File) Service Date 07/07/2011. (Admin.) (Entered: 07/08/2011)

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